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S E C R E T SECTION 01 OF 02 THE HAGUE 000309

NOFORN
SIPDIS

E.O. 12958: DECL: 05/18/2019
TAGS: ETTC KTFN PTER EFIN NL
SUBJECT: NETHERLANDS/TERRORISM FINANCE: URGENT REQUEST FOR
INFORMATION TO SUPPORT SISON LISTING

Classified By: Charge d'Affaires Michael Gallagher, reasons 1.4 (b), (d)

¶1. (U) This cable contains an action request; see para 5.

¶2. (S/NF) SUMMARY: The Government of the Netherlands (GONL) is concerned the European Court of First Instance will rule that Jose Maria Sison does not belong on the EU sanctions list. The GONL may be unable to retain its domestic designation against Sison, an OFAC-listed Filipino terrorist living in the Netherlands, if the EU removes him from its list. The GONL claims that it listed Sison in 2002 at the USG's request, and it is now urgently asking for USG information to bolster the case for keeping Sison's EU and Dutch designations. END SUMMARY.

¶3. (S/NF) The Foreign Ministry's terrorism finance coordinator, Wendela Haringhuizen, met EconOff May 13 to discuss the Sison case and the GONL's great concern about the repercussions if the European Court rules that he should not remain on the EU sanctions list. Haringhuizen said the GONL attorneys who present their arguments to the court April 30 cannot predict whether a decision is imminent or months away, as all bets are off since last year's one-day ruling in the Kadi case. She said if the EU removes Sison from its list, the GONL will have a hard time retaining its domestic asset freeze against him. She alluded to agitation from several countries to remove Sison, including pressure from Norway for the GONL to grant Sison permission to travel there to participate in "peace process" events involving the Communist Party of the Philippines (CPP). Meanwhile, within the EU the customary sanctions blockers feel the case against Sison is weak.

¶4. (S/NF) Haringhuizen said the GONL is trying to prevent Sison's delisting by updating its statement of reason for his designation. The Dutch police, intelligence services (AIVD), and embassy in Manila have all argued the GONL must not allow Sison's delisting. Despite continued efforts to collect admissible evidence against him, however, these offices have not been able to provide concrete help. The next EU terrorism list working group (CP931) to review listings will take place May 26. The Dutch would need to send new information to other Member States in advance for consideration by the working group. This would be the only way to get Sison redesignated, if necessary, at the June 15 European Council meeting.

¶5. (S/NF) ACTION REQUEST: The GONL has asked the USG to assist in two ways:

-- To confirm whether the basis for the USG's August 2002 designation of Sison is still valid.

-- To provide any additional information developed since 2002, which the GONL could use to bolster the case that Sison should remain on the EU and Dutch lists. END ACTION REQUEST.

¶6. (S/NF) COMMENT: The GONL thinks there is much at stake in the Sison case. Whereas the European courts have until now focused on procedural issues of sanctions designations, the Court of First Instance may rule on the substance of the Sison case. A negative decision would set a dangerous precedent for the entire EU sanctions regime. The GONL feels on thin ice because the original listing was in part at the USG's request. END COMMENT.

¶7. (SBU) Timeline of significant events involving Sison case in the Netherlands:

-- September 1997: In Dutch court, Sison loses his appeal of earlier asylum request rejections. But judge decides he may not be expelled to the Philippines because he would face real risk of inhumane treatment, violating Article 3 of the European Convention on Human Rights.

-- August 12, 2002: USG adds the CPP and the New People's Army (NPA) to its asset freeze list under Executive Order ¶13224.

-- August 13, 2002: GONL freezes assets of Sison, CPP, and NPA in the Netherlands. In response to subsequent questions from Parliament, the Foreign Minister states in writing: "The U.S. has also asked the Netherlands to freeze the assets of the CPP/NPA and Mr. Sison who is living in the Netherlands.

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The Netherlands has decided, on the basis of already available information and the American request, to go into freezing... In April 2002, the CPP/NPA still threatened to attack the American military and citizens present in the Philippines, including diplomats."

-- Late 2002: EU Clearinghouse designates Sison. Sison begins legal challenges in European courts.

-- August 2007: Dutch authorities re-arrest Sison on suspicion of involvement in two political murders in the Philippines.

-- October 2007: Dutch court indicates there is evidence that Sison has continued his involvement in the CPP and NPA during his time in the Netherlands.

-- April 2008: GONL updates the statement of reason against Sison to address some EU Member States' concerns.

-- March 2009: Dutch public prosecutor drops case against Sison, after determining a criminal conviction is unlikely.

-- April 30, 2009: European Court of First Instance hears Sison's challenge to his EU designation.

GALLAGHER